

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No: 3:17-CV-00652

SNYDER'S-LANCE, INC. and PRINCETON
VANGUARD, LLC,

Plaintiffs,

v.

FRITO-LAY NORTH AMERICA, INC.,

Defendant.

FRITO-LAY NORTH AMERICA, INC.'S
MOTION TO COMPEL PRODUCTION OF
DOCUMENTS

Pursuant to Rules 34 and 37 of the Federal Rules of Civil Procedure and LCvR 7.1 of the Local Rules of the Western District of North Carolina, Defendant Frito-Lay North America, Inc. hereby moves for an order compelling Plaintiffs to produce documents responsive to Frito-Lay's Requests for Production Nos. 7, 15, and 16, served on November 20, 2018, and to identify documents responsive to those requests that are no longer in Plaintiffs' possession for failure to preserve them, if any. Frito-Lay further requests that the Court require Plaintiffs to produce these documents as they are kept in the normal course of business with all accompanying metadata. In support of its Motion, Frito-Lay relies upon the Brief in Support filed contemporaneously with this Motion.

Pursuant to Rule 37(a) of the Federal Rules of Civil Procedure and LCvR 7.1(b), counsel for Frito-Lay has met and conferred with counsel for Plaintiffs numerous times in an effort to resolve the issues, but the parties have been unable to reach a resolution. These attempts include

numerous email communications back and forth since January 9, 2019, as well as a lengthy phone conversation between counsel on February 14, 2019.

Accordingly, Frito-Lay respectfully requests this Court to enter an order requiring Plaintiffs to produce documents responsive to Frito-Lay's Request for Production Nos. 7, 15, and 16, in the format in which they are kept in the normal course of business with accompanying metadata, and to identify any responsive documents that are no longer in Plaintiffs' possession for failure to retain them.

This 19th day of February, 2019.

/s/ Alice C. Richey
Alice C. Richey
N.C. Bar No. 13677
Abigail W. Henderson
N.C. Bar No. 52182
ALEXANDER RICKS PLLC
4601 Park Road, Suite 580
Charlotte, North Carolina 28209
Telephone: 980-335-0720
Facsimile: 704-365-3676
alice@alexanderricks.com
abbie@alexanderricks.com

William G. Barber*
David E. Armendariz*
PIRKEY BARBER PLLC
600 Congress Ave.; Suite 2120
Austin, Texas 78701
Telephone: (512) 482-5223
Facsimile: (512) 322-5201
bbarber@pirkeybarber.com
darmendariz@pirkeybarber.com

Attorneys for Defendant

* admitted *pro hac vice*